

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

JACOB SMITH,	)	Case No. 2:20-cv-03755
	)	
Plaintiff,	)	
	)	Judge Edmund A. Sargus
v.	)	Magistrate Judge Kimberly A. Jolson
	)	
FIRSTENERGY CORP., <i>et al.</i> ,	)	
	)	
Defendants.	)	
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JAMES BULDAS,	)	Case No. 2:20-cv-03987
	)	
Plaintiff,	)	Judge Edmund A. Sargus
	)	Magistrate Judge Kimberly A. Jolson
v.	)	
	)	
FIRSTENERGY CORP., <i>et al.</i> ,	)	
	)	
Defendants.	)	
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BRIAN HUDOCK and CAMEO COUNTERTOPS, INC.,	)	Case No. 2:20-cv-03954
	)	
Plaintiffs,	)	Judge Edmund A. Sargus
	)	Magistrate Judge Kimberly A. Jolson
v.	)	
	)	
FIRSTENERGY CORP., <i>et al.</i> ,	)	
	)	
Defendants.	)	
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**PLAINTIFFS' MEMORANDUM IN SUPPORT OF MOTION TO AUTHORIZE  
DISTRIBUTION OF SETTLEMENT FUNDS**

On December 5, 2022, the Court approved two class action settlements with multiple defendants, ECF Doc. No. 167, but by a separate order, retained jurisdiction to administer the settlement. ECF Doc. No. 167-1 at PageID 7799.

The Court also approved A.B. Data as the Settlement Administrator, ECF Doc. No. 142 at PageID 5276, with the FirstEnergy Settlement Agreement providing for up to \$2.5 million to be paid from an escrow account for notice and administration costs, ECF Doc. No. 139-3 at PageID 4639, and an additional \$1.0 million from Energy Harbor, ECF Doc. No. 139-3 at PageID 4672. As set forth in the accompanying Declaration of Eric J. Miller, Senior Vice President with A.B. Data, the Settlement Administrator has completed all of the work necessary to identify specific Settlement Class Members, to remove those who were affiliated with the settling defendants, and to address the questions of Settlement Class Members who contacted the Settlement Administrator through various means. Decl. ¶5-7.

A.B. Data has also been paid a total of \$617,370.53 from the settlement funds, which included the costs associated with providing Notice to the Class, has an outstanding balance of \$15,724.51, and anticipates incurring additional expenses in the amount of \$523,749 to finalize the distribution. *Id.* ¶9. These past and expected future expenses are summarized in the table included in the Miller Declaration at ¶8 and restated below:

Description	Qty	Price	Past Invoices	Projected Qty	Projected Price	Projected Invoices
800 Number Charges (Per Minute)	3,260	\$0.12	\$391.20	9,600	\$0.12	\$1,152.00
Advanced Address Update	77,491	\$0.25	\$19,372.75	951	\$1.10	\$1,046.10
Check Processing Fee (per check)	9513	\$0.15		9,513	\$0.15	\$1,426.95
CSRs/Live Operators (Per Hour)	252.5	\$48.00	\$12,120.00	360	\$48.00	\$17,280.00
Digital Payments	1,588,808	\$0.20		1,588,808	\$0.20	\$317,761.60
Distribution Setup	1	\$1,500.00		1	\$1,500.00	\$1,500.00

Document Imaging	616	\$0.15	\$92.40			
Electronic Storage (Per Page/Per Month)	9		\$743.95			
Interactive Voice Response (IVR) (Per Minute)	1,725	\$0.44	\$759.00	3,200	\$0.44	\$1,408.00
IVR and Line Maintenance (Monthly)	10	\$190.00	\$1,900.00	12	\$190.00	\$2,280.00
Media Notices	1	\$15,000.00	\$15,000.00			
NCOA Address Updating (Minimum Charge)	2		\$2,375.00			
Post Office Box Rental/Renewal (annual)	1	\$1,250.00		1	\$1,250.00	\$1,250.00
Postage			\$417,956.69			
Postage - Checks	10,464	\$0.55		10,464	\$0.55	\$5,755.20
Prepare and QC Settlement Award (hourly)	20	\$175.00		20	\$175.00	\$3,500.00
Prepare and Send Email Notices	1,726,662	\$0.00	\$5,179.99			
Printing and Mailing of Checks	9,513	\$0.30		9,513	\$0.30	\$2,853.90
Printing and Mailing of Debit Cards	621,235	\$0.20		621,235	\$0.20	\$124,247.00
Printing and Mailing of Postcard Notices	1,270,000		\$88,918.00			
Project Management (Hourly)	62	\$165.00	\$10,230.00	60	\$165.00	\$9,900.00
Project/Database Setup (One-Time Fee)	1	\$1,500.00	\$1,500.00			
QSF Income Tax Reporting 2022 (Per Year)	1	\$2,250.00	\$2,250.00	2	\$2,250.00	\$4,500.00
Quality Assurance (Hourly)	0.5	\$150.00	\$75.00	40	\$150.00	\$6,000.00
Receipt and Processing of Undeliverable Mail	65,852		\$17,832.20	95	\$3.25	\$308.75
Reissuance of Checks to Updated Addresses	951	\$4.50		951	\$4.50	\$4,279.50
Remailing of Notice Packets to Updated Addresses	31,558	\$0.25	\$7,889.50			
Staff (Hourly)	103	\$95.00	\$9,785.00	40	\$95.00	\$3,800.00
System Support (Hourly)	69	\$175.00	\$12,075.00	60	\$175.00	\$10,500.00

Toll-Free Telephone Line Setup (One-Time Fee)	1	\$1,000.00	\$1,000.00			
Transperfect Translations	1	\$649.36	\$649.36			
Website Maintenance/Hosting (Monthly)	10	\$250.00	\$2,500.00	12	\$250.00	\$3,000.00
Website Setup and Design (One-Time Fee)	1	\$2,500.00	\$2,500.00			
<b>TOTAL:</b>			<b>\$633,095.04</b>			<b>\$523,749.00</b>

The balance of \$35,493,876.29 of settlement funds remain. *Id.* ¶9. There are 2,219,556 eligible Settlement Class Members. *Id.* ¶10.

Plaintiffs have moved the Court to create a reserve to pay for A.B. Data's estimated future fees and expenses, pay Settlement Class Members whose payments calculate out to less than \$1 an even distribution of \$1, and allocate the remaining proceeds to Settlement Class Members. This plan, subject to this Court's approval, is set forth in the Declaration of Eric J. Miller at ¶11 (a)-(c). Again, with the Court's approval, it is anticipated that digital payments, by e-mail, will be distributed to Settlement Class Members whose payments are from \$1 up to \$250 and have valid e-mail addresses. *Id.* at ¶11(d). Those who do not have valid e-mail addresses will receive physical debit cards. *Id.* at ¶11(e). Physical checks will be mailed to Settlement Class Members whose payments are larger than \$250. *Id.* at ¶11(f). Following those distributions, any undeliverable payments will be the subject of a second attempt to reissue payment, followed by a second distribution if feasible and economical. *Id.* at ¶11(g)-(h). Following that process, the Settlement Administrator and counsel anticipate coming back to this Court to request a Cy Pres distribution. *Id.* at ¶11(f).

**CONCLUSION**

For the reasons set forth above, Plaintiffs request that the Court approve the distribution outlined above and in the Declaration of Eric J. Miller, and have provided a proposed order for the Court's consideration.

Respectfully submitted,

/s/ Dennis E. Murray, Jr.

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**CERTIFICATE OF SERVICE**

I certify that on June 1, 2023, the foregoing was filed electronically using the CM/ECF System. Notice of this filing will be sent to all parties in this case by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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